



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

September 15, 2006

**H.R. 6054  
Military Commissions Act of 2006**

*As ordered reported by the House Committee on Armed Services  
on September 13, 2006*

**SUMMARY**

H.R. 6054 would authorize the President to establish military commissions to try unlawful combatants for a number of offenses including terrorism, hijacking, and the murder of non-combatants. The bill would set out the rules and procedures for such trials, including the process for assigning counsel and compelling witnesses and evidence, the rules of evidence, and post-trial reviews and appeals. H.R. 6054 also would amend the U.S. criminal code to retroactively specify which actions under the Geneva Convention would be considered criminal acts for which the U.S. Armed Forces or other U.S. nationals could be prosecuted. The bill would apply to detention, treatment, or trial of any person detained since September 11, 2001.

CBO estimates that implementing H.R. 6054 would cost \$21 million in 2007 and \$141 million over the 2007-2011 period, assuming the appropriation of necessary funds. Enacting H.R. 6054 would not affect direct spending or revenues.

H.R. 6054 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

**ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 6054 is shown in the following table. The costs of this legislation fall within budget function 050 (national defense).

	By Fiscal Year, in Millions of Dollars				
	2007	2008	2009	2010	2011
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Estimated Authorization Level	29	30	31	31	32
Estimated Outlays	21	28	29	31	32

## **BASIS OF ESTIMATE**

Pursuant to the President’s Military Order on November 21, 2001, the Secretary of Defense established the Office of Military Commissions (OMC) within the Defense Legal Services Agency of the Department of Defense (DoD). Prior to the U.S. Supreme Court’s decision on June 29, 2006, that prohibited the use of military commissions to try unlawful combatants, the OMC was responsible for trying unlawful combatants detained by DoD.

To date in fiscal year 2006, the OMC has received approximately \$27 million in appropriations from the fiscal year 2006 Defense Appropriations Act (Public Law 109-148) and the 2006 Emergency Supplemental for Defense, the Global War on Terror, and Hurricane Recovery (Public Law 109-234). Those amounts cover expenses for salaries and benefits of civilian personnel, travel, contractual services, equipment and supplies. In addition, the OMC has also used 10 to 15 reserve Judge Advocates to assist the OMC in preparing and trying cases. Based upon prior costs and staffing levels, CBO estimates that implementing H.R. 6054 would cost \$21 million in 2007 and \$141 million over the 2007-2011 period, assuming the appropriation of necessary funds.

CBO assumes for the purposes of this estimate that, if legislation is not enacted authorizing the use of military commissions to try unlawful combatants detained by the United States, the OMC will be dissolved and the United States would continue to hold those detainees who would have been tried. Thus, the estimated costs of the bill reflect only the incremental costs for conducting such trials.

Section 4 of H.R. 6054 would change the U.S. criminal code to specify which actions under the Geneva Convention would be considered criminal acts for which the U.S. Armed Forces or other U.S. nationals could be prosecuted. We expect that section 4 would apply to a relatively small number of cases. Thus, any resulting in change in costs for law enforcement, court proceedings, or prison operations would not be significant.

Section 6 of would specify that section 1003 of the Detainee Treatment Act of 2005 would satisfy U.S. obligations with respect to the standards for treatment under Common Article 3 under the Geneva Conventions. If enacted, this section may provide more latitude to the United States in the treatment and interrogation of detainees. Section 7 of the bill would expand the conditions under which the government would provide funds and personnel to defend certain government employees who are being investigated or prosecuted in a matter related to the detention and interrogation of certain detainees. CBO has no basis for estimating the potential cost of those sections.

#### **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

H.R. 6054 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

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